THE HON'BLE SRI JUSTICE C.V. RAMULU

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W.P.No.2780 of 1999

Dated: 28-07-2005

Between:

N.G.Joshi, S/o. G.B. Joshi,

Aged 70 years, Occ: Retired Employee,

R/o. H.No.474-45th Cross, 8th Cross,

Jaya Nagar, Bangalore.

Petitioner….

And

The Labour Court-II at Hyderabad

Represented by its Presiding Officer,

Chandra Vihar Buildings, 4th Floor,

M.J.Road, Hyderabad.

Respondents…

ORDER:

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This writ petition is filed seeking a Writ of Certiorari to call for the records relating to the award dated 12-10-1998 in I.D.No.707 of 1992 passed by the Labour Court II, Hyderabad, and quash the same as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner into service with all consequential benefits.

It is the case of the petitioner that he joined the services of the 2nd respondent-M/s. Chougula Matrix Hobs Limited on
15-09-1976 as Assistant Manager without any managerial powers and he discharged his duties to the utmost satisfaction of his superiors up to 14-04-1979. His services were terminated making false and baseless allegations. Further the 2nd respondent forced the petitioner to submit his resignation and in fact the resignation was obtained from him under duress. Aggrieved by the same,
the petitioner filed a complaint before the Presiding Officer, Labour Court-II at Bombay, which was numbered as U.L.P.No.88 of 1979 and the said complaint was dismissed on the sole ground of jurisdiction that as the place of work of the petitioner was at Hyderabad, hence the complaint filed by him was not maintainable. However, the Labour Court-II, Bombay found that the petitioner was a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 (for short 'the Act'). Therefore, he raised the dispute under Section 2-A (2) of the Act, which was taken on file as I.D.No.707 of 1992 by the Labour Court-II, Hyderabad. According to the petitioner, the Labour Court unfortunately held that the petitioner was not a 'workman' within the meaning of Section 2(s) of the Act and therefore dismissed the petition as not maintainable.

Learned counsel appearing for the petitioner submits that the Labour Court-II, Hyderabad, has grossly erred in holding that the petitioner was not a 'workman' within the meaning of the Act.

Learned counsel appearing for the respondents strenuously contended that the findings of the Labour Court-II, Hyderabad are just and proper and does not call for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side, perused the award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error

warranting interference of this Court under Article 226 of the Constitution of India. The Labour Court has meticulously followed each and every piece of evidence placed before it and rightly came to the conclusion that the petitioner is not a 'workman' within the meaning of the Act. It is interesting to note that the petitioner himself admitted that he was appointed as Assistant Manager and worked for two years and during that period he interviewed some candidates for selection and appointment and some casual workers of the construction department were helping him, when required. The petitioner denied the suggestion that he discharged administrative duties under the respondent company and he was corresponding with the customers and other parties including various statutory authorities but whereas the recitals in Exs.M-2 to M-11 shows that the petitioner was working in managerial and administrative capacities in the respondent company and therefore he does not fit into teeth of the definition of Section 2(s) of the Act as a 'workman'. Thus the Labour Court-II, Hyderabad, has rightly come to the conclusion that the petitioner is not a 'workman' within the meaning of the Act. The conclusion reached by the Labour

Court-II, Hyderabad, does not suffer from any legal infirmities, calling interference of this Court under Article 226 of the Constitution of India.

The writ petition is devoid of any merit and liable to be dismissed. The writ petition is accordingly dismissed. No order as to costs.

C.V. RAMULU, J

Dated: 28-07-2005

LSK